

RESEARCH AND DEVELOPMENT TAX CREDIT ASSIGNMENT PROGRAM

Program Guidelines | January 2019



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Section I – General

A. Introduction

Research and Development tax credits (“R&D tax credits”) are available to taxpayers incurring qualified expenses for research and development in Pennsylvania. The Pennsylvania Department of Revenue (“DOR”) administers the approval of applications for R&D tax credits.

Qualified businesses, including pass-through entities can apply the tax credit against the following Pennsylvania state taxes: Capital Stock/Foreign Franchise Tax, Corporate Net Income Tax, and Personal Income Tax. The tax credit must first be applied to the entity’s corporate tax liability, if any, for the year in which the tax credit is awarded before it can be passed through to its partners, shareholders or members. The tax credit can also be sold or assigned. A purchased or assigned tax credit may be applied to no more than 75 percent of the tax liability of the purchaser or assignee.

The tax credit may not be carried back and is not refundable. The amount of the tax credit passed through to partners, shareholders and members is based on the percentage of income distribution from the entity receiving the tax credit. The buyer shall immediately claim the credit in the taxable year in which sale or assignment is made.

To sell or assign a Research & Development tax credit, the taxpayer selling/assigning its R&D tax credits must file an application with the Pennsylvania Department of Community and Economic Development (“DCED”).

Inquiries concerning R&D tax credits, including how to apply for the credits, eligibility for credits, and the status of existing credits, should be directed to DOR at (717) 705-6225 or (717) 772-3896.

Inquiries concerning the assignment of R&D tax credits should be directed to DCED, Office of Technology and Innovation at (717) 787-4147.

B. Eligibility

1. Sellers

- a. To be eligible to sell or assign R&D tax credits, the taxpayer must file state tax returns and first apply awarded credit against tax liabilities for the tax period in which the credit was first approved or granted.
- b. The sale/assignment application may only be filed with DCED after the PA state tax returns are filed and accepted by the Department of Revenue.
- c. Credits may only be sold or assigned once and the sale or assignment cannot be reversed.
- d. If a pass-through entity holding a R&D Tax Credit does not have sufficient tax liability to use the credit, the pass through entity may elect in writing to transfer all or a portion of such credit to its shareholders, members, or partners in portion to the share of the entity’s distributive income to which the shareholder, member, or partner is entitled. This transferred credit is (1) in addition to any R&D Credit to which the shareholder, member, or partner of the pass through entity is otherwise entitled, (2) to be claimed in the taxable year in which transferred, and (3) not to be carried forward, carried back, refunded, sold, or assigned. Additionally, a pass through entity and a shareholder, member, or partner of a pass through entity may not claim a credit for the same qualified research and development expense.

2. Buyers and Assignees

- a. The buyer or assignee must claim the R&D tax credit in the taxable year in which DCED approved the assignment.
- b. A buyer or assignee may not apply to assign the credits again.
- c. A purchased or assigned tax credit may be applied to no more than 75 percent of the tax liability of the purchaser or assignee.

C. Program Requirements and Conditions

1. The application must be completed in full. Omission of information in required fields on the application will result in the application's delayed review period or rejection.
2. If a business is selling R&D tax credits to more than one buyer or credits from more than one issue date, a separate application must be submitted to DCED.
3. R&D tax credits may only be assigned once. Once an assignment is approved, it is final, and the seller's right to claim the credit is terminated. Buyers may not resell or reassign the R&D tax credits.
4. The date of receipt of the application will be recorded on the application by the DCED Office of Technology and Innovation. This date will be used to establish the official date for the assignment or sale of the R&D tax credits, if the application is approved.
 - If the seller and buyer agree that the tax credits being assigned or sold are to be used for a specific taxable calendar or fiscal year, the submission of the application should be timed so that DCED receives it on or before the last business day of the taxable calendar or fiscal year for which the tax credit will be used.
5. The DCED and the DOR strive to complete the R&D tax credit assignment approval process within **90 days** of receipt of the assignment application by DCED's Office of Technology and Innovation. However, the 90 day application approval is a targeted turn-around period and is not a guarantee that an assignment or sale application will be approved within that time frame. Delinquent tax filings, outstanding tax liabilities, and other compliance issues (i.e. submitting an incomplete application, inaccurate account identification numbers, etc.) will result in the application's delayed approval or rejection.
6. Once an application has been rejected, the DCED will contact the applicant informing them that there were issues in processing the application resulting in the application being rejected. The seller will need to resolve the issues that caused the application to be rejected prior to submitting a new sale or assignment application. The date of receipt of the new application will be used to establish the official date for the assignment or sale of the R&D tax credits, if the application is approved.

Section II – Application Information

DCED will only process applications submitted on a copy of the official application form. Completed applications, including all required signatures, must be submitted to:

PA Department of Community & Economic Development
Office of Technology and Innovation
ATTN: R&D Tax Credit Transfer Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Or emailed to: ra-dcrd_sa_app@pa.gov

For specific questions on this program, contact the Office of Technology and Innovation in DCED at: (717) 787-4147.